

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

JAMES DAVIS,

Plaintiff,
Defendants.

Case No. 2:10-cv-01364-KJD-PAL

VS.

THE STATE OF NEVADA, et al.,

ORDER

ORDER AND REPORT OF FINDINGS AND RECOMMENDATIONS

(IFP App - Dkt. #1)

This matter is before the court on Plaintiff James Anthony Davis' Application to Proceed *In Forma Pauperis* (Dkt. #1). Under 28 U.S.C. § 1915(g), Plaintiff has been banned from filing actions *in forma pauperis* unless he can show he is in imminent danger of serious physical injury. *See Order* (Dkt. #3) in Case No. 3:04-cv-529-ECR-VPC. In that Order, Judge Reed directed that if Plaintiff, while incarcerated, seeks to proceed *in forma pauperis* in any new case in federal court, he should attach a copy of the Order to his Application to Proceed *In Forma Pauperis* or he should inform the court he has been held subject to the restrictions of 28 U.S.C. § 1915(g). Plaintiff has not complied with this Order.

Plaintiff cannot proceed *in forma pauperis* in this action or any other civil action filed in any federal court because he has had three or more prior actions dismissed for failure to state a claim upon which relief may be granted, or as frivolous or malicious. The subject matter of this action does not indicate that Plaintiff is in imminent danger of serious physical injury. He must pre-pay the filing fee in full.

Accordingly,

IT IS RECOMMENDED that Plaintiff's Application to Proceed *In Forma Pauperis* (Dkt. #1) be DENIED and this entire action be DISMISSED without prejudice unless Plaintiff pays the \$350.00 filing fee in full on or before **February 4, 2011**.

1 **IT IS ORDERED:**

2 1. The Clerk of the Court shall send Plaintiff two copies of this Order. Plaintiff shall make
3 the necessary arrangements to have one copy of this Order attached to the check paying
4 the filing fee.

5 2. The Clerk of the Court shall retain the Complaint.

6 Dated this 6th day of January, 2011.

7 
8 Peggy A. Leen
9 United States Magistrate Judge

10 **NOTICE**

11 These findings and recommendations are submitted to the United States District Judge assigned
12 to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within fourteen days after being
13 served with these findings and recommendations, any party may file written objections with the court.
14 Pursuant to Local Rule of Practice (LR) IB 3-2(a), any party wishing to object to the findings and
15 recommendations of a magistrate judge shall file and serve *specific written objections* together with
16 points and authorities in support of those objections, within fourteen days of the date of service of the
17 findings and recommendations. The document should be captioned "Objections to Magistrate Judge's
18 Findings and Recommendations." The parties are advised that failure to file objections within the
19 specified time may waive the right to appeal the District Court's Order. *Martinez v. Ylst*, 951 F.2d 1153
20 (9th Cir. 1991). The points and authorities filed in support of the specific written objections are subject
21 to the page limitations found in LR 7-4.